

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DARYL TOEWS**, on January 29, 1999 at 3:30 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. Bill Glaser, Vice Chairman (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis (R)
Sen. John Hertel (R)
Sen. Bob Keenan (R)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)
Sen. Spook Stang (D)
Sen. Jack Wells (R)

Members Excused: Sen. Mignon Waterman (D)

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Janice Soft, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 288, 1/25/1999
Executive Action: SB 150; SB 246; SB 3; SB 288

HEARING ON SB 288

Sponsor: SEN. LINDA NELSON, SD 49, Medicine Lake

Proponents: Calvin Moore, Superintendent, Medicine Lake Schools
Wayne Koterba, Superintendent, Westby Schools
Don Waldron, Montana Rural Education Association
Lance Melton, Montana School Boards Association

Opponents: None

Opening Statement by Sponsor:

SEN. LINDA NELSON, SD 49, Medicine Lake, said **SB 288** changed the way cash was distributed when a school district was abandoned and the territory was assumed by more than one (1) district. She said in her area there was a two-room school at Dagmar which recently closed its doors -- the district would soon be disbanded. The high school portions belonged to Medicine Lake and Westby and under current law any leftover cash of District #49, after paying off any debts, would be split between the two towns, based on where the students were attending school. She said Medicine Lake would be the big winner because most of the students were attending there; however, the actual land involved was more evenly split. She said in most instances of small schools disbanding, the cash would be disposed of before doing so -- she didn't anticipate **SB 288** would have much effect on any other district. She said it made sense that the tax dollars went with the land involved, the land on which the taxes were paid.

Proponents' Testimony:

Calvin Moore, Superintendent, Medicine Lake Schools, read his written testimony **EXHIBIT (eds23a01)**.

Wayne Koterba, Superintendent, Westby Schools, said when he first started investigating the possible changes which would occur when the Hiawatha District would be abandoned, he had many questions, i.e. how would budgeting authority be handled, how would taxable evaluation be combined, how would the newly created K-12 district handle the revenue and expenditures. He said he was not concerned with how the cash would be dispersed because it was logical to assume the revenues added to Hiawatha's district would be based on territory and would be dispersed on the same basis. He was surprised when he read 26-413 of MCA and his first reaction was "That's not fair", and he still felt that way today. His contention was the revenue that was added to the non-operating funds in the district was based on territory and should be dispersed the same way.

Don Waldron, Montana Rural Education Association (MREA), said there was nothing to add to the previous testimony except there were a few of these schools in the state; this would not be the

last one to come up with this problem. He urged the Committee to make the correction in the law.

Lance Melton, Montana School Boards Association (MSBA), said they supported the bill because they thought it appropriate to return the revenue to the area which would require funding from the taxpayers who raised it in the first place.

Opponents' Testimony: None.

{Tape : 1; Side : A; Approx. Time Counter : 5.7}

Questions from Committee Members and Responses:

CHAIRMAN DARYL TOEWS asked who was the winner and who was the loser. **Calvin Moore** said they didn't think of it in those terms; however, if they went by head count of students, Medicine Lake would be more the winner. He said there had been conversations between the two schools as well as the county attorney and county superintendent of schools. Of the 57 sections in the district, 19.25 sections lay in 49-3 and the rest were in 49-7; the math figured about 33% in Westby and 67% in Medicine Lake. Looking at the taxable evaluations in the division of the elementary #49, about 35% of the taxable evaluation went to Westby and 65% went to Medicine Lake. Based on that and on the way the territory and revenue was currently being divided in the high school districts, they felt it was most fair to separate the remaining cash of the non-operating district based on the same criteria.

CHAIRMAN TOEWS asked why they chose territory vs. taxable value and **Mr. Moore** said it figured out to be about the same. **Wayne Koterba** said the taxable evaluation had changed slightly in the past three (3) years which made it a bit difficult to come up with a figure. They figured it was easier to base it on territory which didn't change.

SEN. BILL GLASER referred to 49-3 and 49-7 and said he saw a correction line and asked if they took into account that some of the sections were not 640 acres, but rather correction sections. **Mr. Moore** said they had not done a true assessment of the actual total acres -- it was done by observation and counting the sections, not through the maps of the land officer at the county level.

SEN. BARRY "SPOOK" STANG gave an example: Suppose the district was Frenchtown and the pulp mill was located in this district (the smaller) which had a high taxable value while the other district (larger) was mostly farm land; therefore, the taxes paid from the pulp mill district would be more than those paid from

the farm land. He then referred back to the Hiawatha district and asked if taxable value wouldn't be a better way to go. He agreed in the Hiawatha district, the value was close; however, in the future, abandoning school districts might not find it so.

Lance Melton said he could see his point; however, in either case, distributing it on the basis of territory or on taxable evaluation, would be more fair than the current method -- where the money was being spent, which had no relation to where it had been raised. **Don Waldron** said it would be wrong to start moving those lines around to accommodate assessment. He thought it would be best if the elementary district stayed in the high school districts so everyone knew where the lines were, how the assessments were paid, etc.

SEN. STANG said he didn't say anything about changing the lines; rather, if the lines remained the same but the pulp mill was in the smaller district and the rest was agricultural land, there was more taxable value in the smaller district. He further explained that district should get more because those taxpayers had paid more into the operating fund of that district. **Don Waldron** said if they were talking about the cash left, he couldn't argue; however, if they were talking about the future he wanted to ensure keeping the geographic lines the same. **Calvin Moore** said at this point, nothing had yet been divided; the proposals were currently as according to current law that wouldn't change -- the territory assumed by each district was determined by the county superintendent of schools. **SB 288** wouldn't preclude the county superintendent from making the determination. What they were saying was the land would be based on the territory rather than children attending school and residing within the district -- that was the change. He reminded the Committee when the county superintendent made the division, he or she had the ability to base it on taxable value by merely changing the lines. Current law was extremely vague and it was really up to the county superintendent to make the division and he assumed in most cases it would be done after negotiations. **Mr. Moore** said it was also important to note that not often would there be an elementary district which would be divided between two (2) high school districts; also, when a district was in a non-operating phase, none of the revenue raised by the district was related to children attending school.

{Tape : 1; Side : A; Approx. Time Counter : 13.7}

SEN. ALVIN ELLIS asked if tuition was being paid to the high school districts and was told it wasn't.

Closing by Sponsor:

SEN. LINDA NELSON said she thought **SB 288** was a good bill and she hoped the Committee would look on it favorably.

EXECUTIVE ACTION ON SB 150

Motion: **SEN. STANG** moved that **AMENDMENT SB015001.AEM DO PASS.**

Discussion:

SEN. STANG said the amendments (**EXHIBIT (eds23a02)**) gave people, for example, who lived 30 miles out and drove 10 miles to the bus stop the full round trip transportation reimbursement. In other words, it eliminated the amendment **SEN. JERGESON** had which eliminated the six (6) miles for those who hauled their kids directly to school.

SEN. ALVIN ELLIS asked for more clarification. **SEN. TOEWS** said there were basically two (2) kinds of people who were or were not getting paid -- those who took their kids to the bus stop and those who took theirs to the school. **SEN. ELLIS** expressed concern about how the amendment would leave it. **SEN. STANG** said the people who took their kids from 30 miles out to the bus stop would get the full reimbursement and the other section would be left in current law which said people who went from four (4) miles out to drive their kids to school wouldn't get reimbursed for the round trip inside the three-mile limit.

SEN. JOHN HERTEL asked for clarification by giving the following scenario: He lived 10 miles from the bus stop and would get full reimbursement for transporting his kids to the bus stop. Current law would make him subtract three (3) miles for one (1) direction. He was told he was correct.

SEN. HERTEL asked for clarification why it would be a savings.

SEN. STANG said it was a savings over the way the bill was written because **SB 150** eliminated the six (6) miles for those people as well as those who took their kids from five (5) miles out all the way to the school, i.e. everybody got the six (6) miles eliminated. His amendments cut the fiscal note in half -- if the bill was tabled, there would be no savings but his amendments would create savings over the way the bill was written.

SEN. JACK WELLS repeated his understanding, if a parent brought the child from way out to the bus stop, there would be full payment for the round trip. However, if the parent was inside the three-mile limit there would be no reimbursement for taking the child to school.

SEN. WELLS asked the fiscal impact with the amendments. SEN. STANG said it would be about half.

Vote: Motion that AMENDMENTS SB015001.AEM DO PASS carried 8-2 with SEN. MIKE SPRAGUE AND SEN. DARYL TOEWS voting NO.

Motion/Vote: SEN. STANG moved that SB 150 AS AMENDED DO PASS. Motion carried 6-4 on Roll Call Vote #1.

{Tape : 1; Side : A; Approx. Time Counter : 24.4}

EXECUTIVE ACTION ON SB 246

Motion: SEN. STANG moved that AMENDMENTS SB024601.AEM DO PASS.

Discussion:

SEN. ELLIS said SB 246 allowed school boards to invest their money without going through the country treasurer.

Eddye McClure referred to Amendment SB024601.aem EXHIBIT (eds23a03) and said if the district was going to go that route, it shall use either the board of investments or licensed financial services.

SEN. STANG commented the language said the districts had to do one or the other.

SEN. JON ELLINGSON suggested it looked like school boards would be required to make its investments under the auspices of the above entities and also required them to either contract for the investment services or State Board of Investments; therefore, they were prohibited from contracting with any other investment entity who was not licensed to do business in Montana.

Vote: Motion that AMENDMENT SB024601.AEM DO PASS carried unanimously 10-0.

Motion: SEN. SHEA moved that SB 246 AS AMENDED DO PASS.

Discussion:

SEN. MIKE SPRAGUE referred to Page 4, Lines 3-5, and asked for explanation. Lance Melton said interlocal agreements were

authorized two (2) places in the law -- Title 7 implied both school districts and counties and cities; Title 20 had additional specific provisions which governed whenever a school district was cooperating in contracting with other governmental entities. He opined that language was already there; however, he wanted to restate it so school districts and others would be well aware they had to follow the requirements of interlocal agreements -- duration, proportional ownership of what they were cooperating on, how the funds were distributed, etc.

SEN. SPRAGUE asked what would prohibit a county or school district favoring one investment firm over the other. **Lance Melton** said current law said there had to be a bid when the services or supplies exceeded \$15,000, i.e. nothing exempt investment professionals from the bidding process. He suggested the favoritism would come when the school district would choose the company that would give the best return on the investment.

SEN. SPRAGUE said the ceiling for local governments was much higher and was trying to tie the flexibility and limitations of the school board to the much more expanded local government.

Lance Melton said the investment threshold was higher for counties than for school districts. If a county became involved with a number of school districts in investments, it would be subject to Title 20 provisions for bidding at a \$15,000 threshold. However, one could consider it would be a tremendous contract over some period of time if the costs would exceed \$15,000 for a large majority of the investments which would occur with this bill. He agreed they were comfortable with the standard because the only pockets they were intending to line were those of the school district.

SEN. ELLIS asked about the \$15,000 threshold and **Mr. Melton** said it wasn't the size of the investment, but the cost of the service that would rule whether the bidding would take place.

SEN. WELLS asked why **SB 246** gave the trustees the option to directly invest the money instead of going through the county treasurer. **Lance Melton** said there were school boards who had not identified the subtle nuance in the law as opposed to those who were already doing this and doing it well. The theory behind the bill was constitutionally empowered locally elected officials should be equally responsible and should have the right, because they had the obligation, to manage the affairs of the school district in a fiscally sound way. In other words, they should have that right both with the assistance of or independent of the county treasurer. He stated the hearing also established there were some discrepancies between where county and school district funds could be invested; therefore, there was a fine art in

combining county and school district funds and investing in a way that satisfied both laws.

Vote: Motion that SB 246 AS AMENDED DO PASS carried 9-1 with SEN. DARYL TOEWS voting no.

EXECUTIVE ACTION ON SB 3

SEN. DARYL TOEWS referred to Amendments SB000301.aem **EXHIBIT(eds23a04)**. and said the language was added to Amendment #2 for clarification purposes and was designed to show legislative intent. He also referred to **EXHIBIT(eds23a05)** to illustrate his explanation.

Motion/Vote: SEN. HERTEL moved that AMENDMENTS SB000301.AEM DO PASS. Motion carried unanimously 10-0.

Motion/Vote: SEN. HERTEL moved that SB 3 AS AMENDED DO PASS. Motion carried 6-4 on Roll Call Vote #2.

{Tape : 1; Side : B; Approx. Time Counter : 0; Comments : Roll Call Vote begins Tape 1, Side B}

EXECUTIVE ACTION ON SB 288

Discussion:

SEN. DARYL TOEWS offered Amendments SB028801.aem **EXHIBIT(eds23a06)** and said he would change it from "territory" to "taxable value."

SEN. STANG agreed, saying the districts were talking about the cash left after the district was abandoned and to him, if there was a high-tax area and a low-tax area, the people who paid the high taxes should get the money back.

SEN. ALVIN ELLIS commented he didn't see the difference -- if there was a line drawn across, it didn't matter if there was a lot of value in one area but not in others. Whether the district was divided by location or taxable valuation, it would be virtually the same. SEN. TOEWS said the county superintendent arbitrarily drew the line and the evaluation followed. SEN. ELLIS said it would be the same if it were done by territory and was told it wasn't. SEN. ELLIS said taxes weren't done by total area and couldn't imagine a county doing taxes in that manner --

there were all different classifications of land. He was told his understanding was the same as **SEN. STANG's** proposal.

Motion/Vote: SEN. STANG moved that AMENDMENTS SB028801.AEM DO PASS. Motion carried unanimously 10-0.

Motion/Vote: SEN. STANG moved that SB 288 AS AMENDED DO PASS. Motion carried unanimously 10-0.

ADJOURNMENT

Adjournment: 4:20 P.M.

SEN. DARYL TOEWS, Chairman

JANICE SOFT, Secretary

DT/JS

EXHIBIT (eds23aad)